

SONYA D. WINNER (SBN 200348)
Email: swinner@cov.com
CORTLIN H. LANNIN (SBN 266488)
Email: clannin@cov.com
ISAAC D. CHAPUT (SBN 326923)
Email: ichaput@cov.com
COVINGTON & BURLING LLP
Salesforce Tower
415 Mission Street, Suite 5400
San Francisco, California 94105-2533
Telephone: + 1 (415) 591-6000
Facsimile: + 1 (415) 591-6091

*Attorneys for Defendant/Counterclaimant
Intuitive Surgical Inc.*

ALLEN RUBY (SBN 47109)
allen@allenruby.com
ALLEN RUBY, ATTORNEY AT LAW
15559 Union Ave. #138
Los Gatos, CA 95032
Tel: (408) 477-9690

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

SURGICAL INSTRUMENT SERVICE
COMPANY, INC.,

Plaintiff/
Counterclaim-Defendant
vs.

INTUITIVE SURGICAL, INC.,

Defendant/
Counterclaim-Plaintiff.

Case No.: 3:21-cv-03496-VC

**TABLE OF EXHIBITS
TO THE OPPOSITION OF DEFENDANT
INTUITIVE SURGICAL, INC. TO
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT AND CROSS-
MOTION FOR SUMMARY JUDGMENT**

Hearing Date: June 8, 2023

Hearing Time: 1:00 p.m.

Hearing Place: Courtroom 5

Judge: The Honorable Vince Chhabria

Declaration	Exhibit	Brief Description
Rosa Dec.		Declaration of David Rosa
Rosa Dec.	Ex. 1	Business Alignment Meeting Presentation (Intuitive-00001237 – Intuitive-00001311)
Rosa Dec.	Ex. 2	Intuitive Letter to St. Vincent's Hospital (Intuitive-00980925 – Intuitive-00980927)
Smith Dec.		Declaration of Dr. Loren K. Smith
	Ex. 1	Expert Antitrust Merits Rebuttal Report of Dr. Loren K. Smith (submitted in this case)
Cahoy Dec.		Declaration of Kathryn E. Cahoy
		Exhibit 1 Intentionally Omitted
Cahoy Dec.	Ex. 2	Excerpts of the Deposition of Ryan Shaw (Oct. 19, 2022) (taken in this case)
		Exhibit 3 Intentionally Omitted
Cahoy Dec.	Ex. 4	Excerpts of the Deposition of Grant Duque (Nov. 8, 2022) (taken in this case)
Cahoy Dec.	Ex. 5	Excerpts of the Deposition of Margaret Marie Nixon (Oct. 7, 2022) (taken in this case)
		Exhibits 6-7 Intentionally Omitted
Cahoy Dec.	Ex. 8	Excerpts of Deposition of Sharathchandra “Shark” Somayaji (Nov. 4, 2022) (taken in this case)
Cahoy Dec.	Ex. 9	Excerpts of Deposition of Grant Duque, 30(b)(6) designee for Intuitive (Nov. 8, 2022) (taken in this case)
Cahoy Dec.	Ex. 10	Expert Report of Christy Foreman (submitted in this case)
Cahoy Dec.	Ex. 11	Contract between Intuitive and Larkin Community Hospital (LARKIN-00025487 – LARKIN00025500)

Declaration	Exhibit	Brief Description
Cahoy Dec.	Ex. 12	Contract between Intuitive and Franciscan Alliance, Inc. (FRANCISCAN-00056312 – FRANCISCAN-00056338)
Cahoy Dec.	Ex. 13	Contract between Intuitive and Valley Medical Center (VMC-00020649 – VMC-00020666)
Cahoy Dec.	Ex. 14	“REBOTIX™ INTERCEPTOR CPLD Software Description” (REBOTIX100995 – REBOTIX101019)
Cahoy Dec.	Ex. 15	Rebotix “EndoWrist Service Procedure” (REBOTIX162404 – REBOTIX162424)
Cahoy Dec.	Ex. 16	Excerpts of the Deposition of Dr. T. Kim Parnell (Mar. 10, 2023) (taken in this case)
Cahoy Dec.	Ex. 17	Excerpts of the Deposition of Nickola “Nicky” Goodson, 30(b)(6) designee for Intuitive (Nov. 16, 2022) (taken in this case)
Cahoy Dec.	Ex. 18	Excerpts of the Deposition of Colin Morales (Nov. 1, 2022) (taken in this case)
Cahoy Dec.	Ex. 19	Excerpts of Deposition of Chris Gibson (June 22, 2021) (taken in the <i>Rebotix</i> case)
Cahoy Dec.	Ex. 20	Excerpts of Deposition of Glenn Papit, 30(b)(6) designee for Rebotix (June 2, 2021) (taken in the <i>Rebotix</i> case)
Cahoy Dec.	Ex. 21	Rebotix 510(k) Application for “Re-manufactured EndoWrists” (REBOTIX170421 – REBOTIX170464)
Cahoy Dec.	Ex. 22	Emails re “Rebotix AI Letter Conference Call Follow-Up” (REBOTIX077729 – REBOTIX077734)
Cahoy Dec.	Ex. 23	Email from FDA to Ryan Burke (REBOTIX171058)
Cahoy Dec.	Ex. 24	Letter from Ryan Burke to FDA (REBOTIX171076)
Cahoy Dec.	Ex. 25	Letter from Intuitive to Dr. William Maisel, Director, Office of Product Evaluation and Quality, FDA Center for Devices and Radiological Health (Intuitive-00552745 – Intuitive-00552759)

Declaration	Exhibit	Brief Description
Cahoy Dec.	Ex. 26	Excerpts of Deposition of Stan Hamilton (June 4, 2021) (taken in the <i>Rebotix</i> case)
Cahoy Dec.	Ex. 27	Rebotix & Restore FAQ Responses (REBOTIX044230 – REBOTIX044236)
Cahoy Dec.	Ex. 28	Rebotix – Restore Distributor Agreement (REBOTIX050713 – REBOTIX050723)
Cahoy Dec.	Ex. 29	Excerpts of Deposition of Keith Robert Johnson, 30(b)(6) designee for Surgical Instrument Service Company (Oct. 27, 2022) (taken in this case)
Cahoy Dec.	Ex. 30	Excerpts of Deposition of Greg Posdal (Nov. 1, 2022) (taken in this case)
Cahoy Dec.	Ex. 31	Emails between BPI Medical, Rebotix, and FDA re EndoWrists (BPI000331 – BPI000337)
Cahoy Dec.	Ex. 32	FDA Deficiency Letter re Rebotix “Remanufactured EndoWrists” (REBOTIX171030 – REBOTIX171057)
		Exhibit 33 Intentionally Omitted
Cahoy Dec.	Ex. 34	Emails re “Request for More Information on Rebotix Repair Repairing/Servicing Activities” (REBOTIX146948 – REBOTIX146955)
Cahoy Dec.	Ex. 35	FDA Letter No. CPT2000126 to Rebotix (REBOTIX175417 – REBOTIX175418)
Cahoy Dec.	Ex. 36	Letter from Stan Hamilton to FDA re CPT2000126 (REBOTIX175468 – REBOTIX175470)
Cahoy Dec.	Ex. 37	Emails re “Rebotix Repair, LLC re Document Number CPT200126” (REBOTIX175839 – REBOTIX175843)
Cahoy Dec.	Ex. 38	Emails re “Restore Robotics -- Request for More Information (Restore-00001248 – Restore-00001256)
Cahoy Dec.	Ex. 39	Excerpts of Deposition of Clifton Earl Parker, 30(b)(6) designee for Restore Robotics (May 4, 2021) (taken in the <i>Restore</i> case)
Cahoy Dec.	Ex. 40	Iconocare 510(k) Clearance (SIS357813 – SIS357818)

Declaration	Exhibit	Brief Description
Cahoy Dec.	Ex. 41	FDA Deficiency Letter re Iconocare 8mm Monopolar Curved Scissors (AHP000527 – AHP000537)
Cahoy Dec.	Ex. 42	Emails re Iconocare Deficiency Notice (Restore-00086093 – Restore-00086120)
		Exhibits 43-46 Intentionally Omitted
Cahoy Dec.	Ex. 47	Excerpts of Deposition of Judith Schimmel (Sept. 22, 2022) (taken in this case)
		Exhibits 48-50 Intentionally Omitted
Cahoy Dec.	Ex. 51	Excerpts of Deposition of Dr. Michael Burke (Sept. 27, 2022) (taken in this case)
		Exhibits 52-63 Intentionally Omitted
Cahoy Dec.	Ex. 64	Emails re “Rebotix Repair, LLC re Document Number CPT200126” (REBOTIX175710 – REBOTIX175730)
Cahoy Dec.	Ex. 65	FDA White Paper: Evaluating Whether Activities are Servicing or Remanufacturing
Cahoy Dec.	Ex. 66	Excerpts of the Deposition of Disha Peswani (Oct. 6, 2022) (taken in this case)
		Exhibits 67-70 Intentionally Omitted
Cahoy Dec.	Ex. 71	<i>Rebotix</i> Order on Daubert Motions
Cahoy Dec.	Ex. 72	<i>Restore</i> Order on Daubert Motions
Cahoy Dec.	Ex. 73	Excerpts of the Deposition of Nickola “Nicky” Goodson, 30(b)(6) designee for Intuitive (Oct. 27, 2022) (taken in this case)
Cahoy Dec.	Ex. 74	Excerpts of the Deposition of Marshall Mohr, 30(b)(6) designee for Intuitive (Nov. 7, 2022) (taken in this case)
Cahoy Dec.	Ex. 75	Expert Report of Dr. Robert D. Howe (submitted in this case)

Declaration	Exhibit	Brief Description
Cahoy Dec.	Ex. 76	Expert Report of Dr. Maxwell V. Meng (submitted in this case)
Cahoy Dec.	Ex. 77	Excerpts of Deposition of Greg Posdal (May 10, 2021) (taken in the <i>Restore</i> case)
Cahoy Dec.	Ex. 78	Contract between Rebotix and Surgical Instrument Service Company, Inc. (SIS000046 and SIS000035 – SIS000045)
Cahoy Dec.	Ex. 79	Excerpts of Deposition of Greg Posdal, 30(b)(6) designee for Surgical Instrument Service Company (Nov. 1, 2022) (taken in this case)
Cahoy Dec.	Ex. 80	Emails between representatives of Surgical Instrument Service Company and Banner Health (SIS095115 – SIS095139)
Cahoy Dec.	Ex. 81	Expert Report of Richard F. Bero (submitted in this case)
Cahoy Dec.	Ex. 82	Letter from Intuitive to Marin General Hospital (Intuitive-00049154 – Intuitive-00049156)
Cahoy Dec.	Ex. 83	Letter from Intuitive to Banner Health (Intuitive-00986535 – Intuitive-00986537)
Cahoy Dec.	Ex. 84	Excerpts of Deposition of Keith Robert Johnson (Oct. 27, 2022) (taken in this case)
Cahoy Dec.	Ex. 85	Expert Report of Dr. Paul D. Martin (submitted in this case)
Cahoy Dec.	Ex. 86	Excerpts of the Deposition of Kurt Humphrey (Mar. 15, 2023) (taken in this case)
Cahoy Dec.	Ex. 87	FDA Guidance “Off-The-Shelf Software Use in Medical Devices: Guidance for Industry and Food and Drug Administration Staff”
Cahoy Dec.	Ex. 88	FDA “Guidance for Industry: Cybersecurity for Networked Medical Devices Containing Off-the-Shelf (OTS) Software”
Cahoy Dec.	Ex. 89	Expert Rebuttal Report of Kurt Humphrey (submitted in this case)
Cahoy Dec.	Ex. 90	Excerpts of K131861 AI Response (Intuitive-00506505 – Intuitive-00506641)

Declaration	Exhibit	Brief Description
Cahoy Dec.	Ex. 91	FDA Deficiency Notice to Intuitive re Software (Intuitive-00499486 and Intuitive-00499499 – Intuitive-0049950)
		Exhibits 92-93 Intentionally Omitted
Cahoy Dec.	Ex. 94	Excerpts of Deposition of Stan Hamilton (Nov. 4, 2022) (taken in this case)
Cahoy Dec.	Ex. 95	Excerpts of Deposition of Clifton Earl Parker (Oct. 25, 2022) (taken in this case)
Cahoy Dec.	Ex. 96	Excerpts of the Deposition of Kevin May (Nov. 3, 2022) (taken in this case)